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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,825	05/10/2001	Todd A. Schelling	10559-416001/P10374	6463

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EXAMINER

PYZOCHA, MICHAEL J

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/853,825	SCHELLING ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael Pyzocha	2137	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-11,13-17 and 19-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-11,13-17 and 19-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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**DETAILED ACTION**

1. Claims 1, 3-11, 13-17, and 19-32 are pending.
2. Amendment filed 10/17/2006 has been received and considered.

***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 3-11, 13-17, and 19-32 have been considered but are moot in view of the new ground(s) of rejection.
4. Applicant's arguments, see pages 8-11, filed 10/17/2006, with respect to rejections under 35 USC 112 have been fully considered and are persuasive. The rejection of claims 8-16, 24-26, and 32 has been withdrawn.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 1, 3, 5, 6, 8, 10, 13, 16, 17, 19, 21, 22, 24-30, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olarig et al. (US 6009524) in view of Drews (US 6647494).

As per claims 1, 8, 17, 24, and 27, Olarig et al. discloses receiving, at a BIOS in a system, a message from an authorized party, wherein the authorized party is selected from a group of authorized parties consisting of a manufacturer, an original equipment manufacturer, and a lessor (see column 4 lines 1-15); authenticating that the message has been sent by the authorized party using a digital signature in the message and a public key storing in non-volatile storage communicatively coupled to the BIOS (see column 4 lines 16-25); when the message has been successfully authenticated, controlling a state of an optional feature of a system resource in the system using the BIOS, according to the message, wherein the message comprises information to determine the optional feature, and wherein the message further comprises a digital signature used for authenticating, and when the message fails to authenticating, then discarding the message (see column 4 lines 1-34).

Olarig et al. further discloses the use of a second digital signature for further verification, but fails to disclose the use of a GUID for verification.

However, Drews teaches the use of a GUID (see column 3 lines 52-58).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use a GUID in the updating system of Olarig et al.

Motivation to do so would have been to prevent a specific type of attack (see Drews column 3 lines 52-58).

As per claims 3, 13, 19, the modified Olarig et al. and Drews system discloses storing the message in a secure non-volatile location (see Olarig et al. column 4 lines 16-25).

As per claims 5, 21, 25, the modified Olarig et al. and Drews system discloses splicing the content of the message into an execution path of the BIOS, wherein the splicing comprises at least one of modifying the BIOS or erasing a portion of the BIOB, in response to the message (see Olarig et al. column 1 lines 18-33).

As per claims 6, 16, 22, 28, 26 and 30, the modified Olarig et al. and Drews system discloses receiving the message via a network transmission (see Olarig et al. column 3 lines 41-51).

As per claims 10 and 32, the modified Olarig et al. and Drews system discloses the system has the hardware to perform the functionality of the method (see Olarig et al. figure 1).

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As per claim 29, the modified Olarig et al. and Drews system discloses rebooting the system to enable BIOS control of the feature (see Olarig et al. column 4 lines 26-34).

7. Claims 4, 14, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Olarig et al. and Drews system as applied to claims 3, 13, and 19 above, and further in view of Dayan et al. (US 5230052).

As per claims 4, 14, 20, the modified Olarig et al. and Drews system fails to disclose the location is a remote storage.

However, Dayan et al. teaches storing BIOS information remotely (see column 4 lines 3-13).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to store the BIOS data of the modified Olarig et al. and Drews system remotely.

Motivation to do so would have been to allow all computers connected to a LAN to be configured the same (see Dayan et al. column 3 lines 54-68).

8. Claims 7, 15, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Olarig et al. and Drews system as applied to claims 1, 8, 17 above, and further in view of Obata (US 20010025312).

As per claims 7, 15, 23, the modified Olarig et al. and Drews system fails to disclose updating a feature set of the

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system BIOS according to the message, wherein the feature set comprises a status of features of the system.

However, Obata teaches such a feature set (see Figure 2).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to include a feature set in the modified Olarig et al. and Drews system.

Motivation to do so would have been the updating a feature set provides a convenient way to check the status of resources of the system.

9. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Olarig et al. and Drews system as applied to claim 8 above, and further in view of Feldbau et al. (US 6182219).

As per claims 9 and 11, the modified Olarig et al. and Drews system fails to disclose storing the authentication information in a write-once non-volatile unit.

However, Feldbau et al. teaches such storage of authentication information (see column 7 lines 41-58).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to store the authentication information of the modified Olarig et al. and Drews system in a write-once unit.

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Motivation to do so would have been to prevent the information from being changed (see Feldbau et al. column 7 lines 41-58).

10. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Olarig et al. and Drews system as applied to claim 27 above, and further in view of Samson (US 6487647).

As per claim 31, the modified Olarig et al. and Drews system fails to disclose the message includes a DLL that is stored in non-volatile storage coupled to the BIOS where the DLL is loaded by the BIOS at run-time.

However, Samson teaches such a DLL (see column 7 lines 21-38).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to include a DLL with the message of the modified Olarig et al. and Drews system.

Motivation to do so would have been to initialize components of the system (see Samson column 7 lines 21-38).

#### **Conclusion**

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is



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reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gafken (US 6026016) and Qureshi et al. (US 6769059) teach the use of digital signatures to verify BIOS data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner

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can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJP

  
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SUPERVISORY PATENT EXAMINER